

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

FRANCIS X. TIERNEY,

Plaintiff,

v.

CITY OF BOSTON,

Defendant.

C.A. No. 04-10518-RGS

*Filed in USDC  
8/27/04  
May T.  
Gon  
Reputy  
08/27/04*

MOTION OF CITY OF BOSTON FOR INTERIM ORDER

The Defendant City of Boston ("Boston"), hereby moves, pursuant to Fed.R.Civ.P. 7 and 16, and L.R.D.Mass. 7.1 and 16.3, for an Order by the Court providing guidelines for instatement of Plaintiff as a Boston firefighter. In support of its Motion, Boston states as follows:

1. Pursuant to their obligations under L.R. D.Mass. 16. 1(C), and the parties' representations to the Court at the Rule 16(b) conference on August 25, 2004, Boston has made a proposal to resolve this litigation.

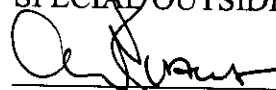
2. Pursuant to the mandate of Quinn v. City of Boston, 325 F.2d 18 (1<sup>st</sup> Cir. 2003), and this Court's Order in Quinn v. City of Boston, 279 F.Supp. 2d 51 (D.Mass. 2003), Boston believes its offer of resolution is reasonable.

3. Because one element of Plaintiff's requested relief, however, is the opportunity pursuant to civil service law and Boston eligibility requirements to be certified as a firefighter candidate, Boston believes any action by Boston on this request first requires a court order.

4. The proposed Order addresses a potential instatement remedy only,<sup>1</sup> and the intent of Boston is that this proposed Order apply to the named Plaintiff only.

WHEREFORE Boston respectfully requests that the Court grant this Motion and enter an Order consistent with the Proposed Order attached hereto.

CITY OF BOSTON  
MERITA A. HOPKINS  
Corporation Counsel  
By its attorneys,  
SPECIAL OUTSIDE COUNSEL



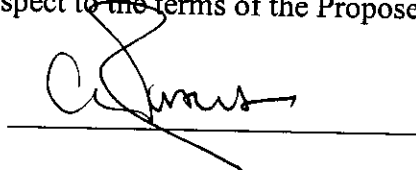
Christine M. Roach – BBO #421630  
ROACH & CARPENTER, P.C.  
24 School Street  
Boston, MA 02108  
(617) 720-1800

DATED: 8/27/04

L.R.D. Mass. 7.1(A)(1) Certification

I, Christine M. Roach, hereby certify that the parties to the Tierney action have conferred in good faith during the week of August 23, 2004 with respect to this motion, but as of this date have been unable to agree with respect to the terms of the Proposed Interim Order.

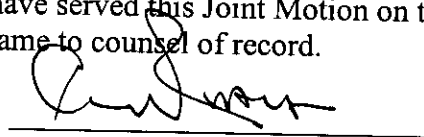
DATED: 8/27/04



Certificate of Service

I, Christine M. Roach, hereby certify that I have served this Joint Motion on the opposing parties by this hand delivering a copy of same to counsel of record.

DATED: 8/27/04



<sup>1</sup> Plaintiff intends to present to Boston, and Boston intends to consider in good faith, a Fee Petition prior to final resolution of this matter. To the extent the parties cannot agree on same, they may seek further assistance from the Court.